



February 9, 2007

SENATE BILL No. 471

DIGEST OF SB 471 (Updated February 7, 2007 1:15 pm - DI 106)

Citations Affected: IC 11-8; IC 35-38; IC 35-42; IC 36-2; noncode.

Synopsis: Sex offenders. Requires persons convicted of certain crimes concerning prostitution by minors and human sexual trafficking of minors to register as a sex offender. Exempts from registration as a sex offender: (1) a person convicted of sexual misconduct with a minor if the person is less than five years older than the victim; and (2) a person convicted of kidnapping or confining a minor if the person is the parent or guardian of the victim and the crime was not committed for sexual purposes. Requires both sexually violent predators and sex offenders who are not sexually violent predators to register within 72 hours of a release or address change (under current law, sex offenders who are not sexually violent predators may register within seven days). Requires a local law enforcement authority to provide sex offender registration information to the National Crime Information Center sex offender registry file, requires sex offenders to include certain additional details when registering, and requires registering to be done in person in most cases. Provides that sex offenders without a permanent or temporary residence must register in person every seven days and provide the location where they will be staying. Adds certain offenses to the definition of "offender against children," requires offenders against children to register for life, prohibits an offender against children from working in certain locations, and provides a means for individuals designated as offenders against children to have this designation removed. Requires a person convicted of an offense to be fingerprinted unless the person was already fingerprinted, and requires a sheriff to insure that a sex offender's fingerprints are on file and to fingerprint the sex offender if the fingerprints are not on file. Makes certain other changes.

Effective: July 1, 2007.

**Wyss, Steele, Broden,
Young R Michael, Drozda, Walker**

January 11, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 8, 2007, amended, reported favorably — Do Pass.

SB 471—LS 7163/DI 106+



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February 9, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 471

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-8-8-4, AS ADDED BY P.L.173-2006,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 4. As used in this chapter, "register" means to
4 ~~provide report in person to~~ a local law enforcement authority ~~with~~
5 **and provide** the information required under section 8 of this chapter.
6 SECTION 2. IC 11-8-8-5, AS ADDED BY P.L.173-2006,
7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "sex offender"
9 means a person convicted of any of the following offenses:
10 (1) Rape (IC 35-42-4-1).
11 (2) Criminal deviate conduct (IC 35-42-4-2).
12 (3) Child molesting (IC 35-42-4-3).
13 (4) Child exploitation (IC 35-42-4-4(b)).
14 (5) Vicarious sexual gratification (**including performing sexual**
15 **conduct in the presence of a minor**) (IC 35-42-4-5).
16 (6) Child solicitation (IC 35-42-4-6).
17 (7) Child seduction (IC 35-42-4-7).

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(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), **unless:**

(A) the person is convicted of sexual misconduct with a minor as a Class C felony;

(B) the person is not more than four (4) years older than the victim; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, **and the person who kidnapped the victim is the victim's parent or guardian and did not kidnap the child for sexual purposes.**

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age **and the person who confined or removed the victim is not the victim's parent or guardian and did not confine or remove the child for sexual purposes.**

(13) Possession of child pornography (IC 35-42-4-4(c)). if the person has a prior unrelated conviction for possession of child pornography (~~IC 35-42-4-4(c)~~).

(14) Promoting prostitution of a minor (IC 35-45-4-4) as a Class B felony.

(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

~~(14)~~ **(18) An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(13)~~: (17).**

~~(15)~~ **(19) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(14)~~: (18).**

(b) The term includes:

(1) a person, **including a child**, who is required to register as a sex offender in any jurisdiction; ~~and~~

(2) a child who has committed a delinquent act **in Indiana or another jurisdiction** and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged

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from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense:

(i) described in subsection (a); **or,**

(ii) that is substantially similar to an offense described in subsection (a) if the delinquent act was committed in another jurisdiction;

if committed by an adult.

SECTION 3. IC 11-8-8-7, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

~~(A) exceeding fourteen (14) consecutive days; or~~

~~(B) for a total period exceeding thirty (30) days;~~

during any calendar year in Indiana **regardless** whether the sex offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county in which the sex offender resides. If the sex offender is also required to register under subsection (a)(2) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex offender described in subsection (a)(2) shall register with

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the local law enforcement authority in the county where the sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county. If the sex offender is also required to register under subsection (a)(1) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex offender is enrolled or intends to be enrolled as a student. If the sex offender is also required to register under subsection (a)(1) or (a)(2), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex offender committed to the department shall register with the department before the sex offender is released from incarceration. The department shall forward the sex offender's registration information to the local law enforcement authority of every county in which the sex offender is required to register.

(g) This subsection does not apply to a sex offender who is a sexually violent predator. A sex offender not committed to the department shall register not more than seven (7) days after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sex offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender required to register in more than

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one (1) county under subsection (b); (c); (d); or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex offender who is a sexually violent predator: (g) A sex offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the ~~sexually violent predator sex offender~~ is required to register under subsection (b), (c), or (d); whichever occurs first. A sex offender ~~who is a sexually violent predator~~ required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex offender registers under this section shall make and publish a photograph of the sex offender on the Indiana sex offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site

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established under IC 36-2-13-5.5; ~~and~~

(2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides; **and**

(3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

SECTION 4. IC 11-8-8-8, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The registration required under this chapter must include the following information:

(1) The sex offender's full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification card number, **vehicle identification number (VIN), vehicle description, and vehicle plate number for any vehicle the offender owns or operates on regular basis**, principal residence address, **other address where the sex offender spends more than three (3) nights in a thirty (30) day period**, and mailing address, if different from the sex offender's principal residence address.

(2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex offender.

(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.

(6) If the sex offender is required to register for life, that the sex offender is required to register for life.

(7) Any other information required by the department.

SECTION 5. IC 11-8-8-11, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall ~~register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered~~ **report in person to the local law enforcement authority having jurisdiction over the offender's current principal address or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the offender's new principal address or location not more than seventy-two (72) hours after the address change.**

(b) If a sex offender moves to a new county in Indiana, the local law enforcement authority ~~referred to in subsection (a) where the sex offender's current principal residence address is located~~ shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex offender's principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school, the sex offender shall ~~register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered~~ **report in person:**

(1) **to the local law enforcement authority having jurisdiction over the offender's current principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school; and**

(2) **if a sex offender moves the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the offender's new principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school; not more than seventy-two (72) hours after the change.**

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(d) If a sex offender moves the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority ~~referred to in subsection (c)~~ **having jurisdiction over the offender's current principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school** shall inform the local law enforcement authority in the new county of the sex offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex offender moves the sex offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex offender's new place of residence, employment, **vocation**, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; **and**

(2) **update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).**

SECTION 6. IC 11-8-8-12, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex offender moves into the temporary residence; and

(2) during the period in which the sex offender resides in a temporary residence, at least once every seven (7) days following

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the sex offender's initial registration under subdivision (1).

(c) **A sex offender who does not have a principal residence or temporary residence shall report in person to the local law enforcement authority in the county where the sex offender resides at least once every seven (7) days to report an address for the residence or other location where the sex offender will stay during the time in which the sex offender lacks a principal address or temporary residence.**

~~(c)~~ (d) A sex offender's obligation to register in person once every seven (7) days terminates when the sex offender no longer resides in the temporary residence **or location described in subsection (c).** However, all other requirements imposed on a sex offender by this chapter continue in force, including the requirement that a sex offender register the sex offender's new address with the local law enforcement authority.

SECTION 7. IC 11-8-8-13, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. ~~(a)~~ To verify a sex offender's current residence, the local law enforcement authority **having jurisdiction over the area of the offender's current principal address or location** shall do the following:

(1) Mail a ~~reply~~ form **that is approved or prescribed by the department** to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(2) Mail a ~~reply~~ form **that is approved or prescribed by the department** to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in

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1 IC 35-41-1-21), a secure private facility (as defined in
 2 IC 31-9-2-115), or a juvenile detention facility;
 3 (B) placed in a community transition program;
 4 (C) placed in a community corrections program;
 5 (D) placed on parole; or
 6 (E) placed on probation;
 7 whichever occurs first.

8 (3) Personally visit each sex offender in the county at the sex
 9 offender's listed address at least one (1) time per year, beginning
 10 seven (7) days after the local law enforcement authority receives
 11 a notice under section 7 of this chapter or the date the sex
 12 offender is:

13 (A) released from a penal facility (as defined in
 14 IC 35-41-1-21), a secure private facility (as defined in
 15 IC 31-9-2-115), or a juvenile detention facility;
 16 (B) placed in a community transition program;
 17 (C) placed in a community corrections program;
 18 (D) placed on parole; or
 19 (E) placed on probation;
 20 whichever occurs first.

21 (4) Personally visit each sex offender who is designated a sexually
 22 violent predator under IC 35-38-1-7.5 at least once every ninety
 23 (90) days, beginning seven (7) days after the local law
 24 enforcement authority receives a notice under section 7 of this
 25 chapter or the date the sex offender is:

26 (A) released from a penal facility (as defined in
 27 IC 35-41-1-21), a secure private facility (as defined in
 28 IC 31-9-2-115), or a juvenile detention facility;
 29 (B) placed in a community transition program;
 30 (C) placed in a community corrections program;
 31 (D) placed on parole; or
 32 (E) placed on probation;
 33 whichever occurs first.

34 (b) If a sex offender fails to return a signed reply form either by mail
 35 or in person, not later than fourteen (14) days after mailing, or appears
 36 not to reside at the listed address, the local law enforcement authority
 37 shall immediately notify the department and the prosecuting attorney.

38 SECTION 8. IC 11-8-8-14, AS ADDED BY P.L.173-2006,
 39 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2007]: Sec. 14. **(a) This subsection does not apply to a sex
 41 offender who is a sexually violent predator. In addition to the other
 42 requirements of this chapter, At least once per calendar year, a sex**

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offender who is required to register under this chapter shall, **at least one (1) time per calendar year:**

- (1) report in person to the local law enforcement authority;
 - (2) register; and
 - (3) be photographed by the local law enforcement authority;
- in each location where the offender is required to register.

(b) This subsection applies to a sex offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex offender who is a sexually violent predator under IC 35-38-1-7.5 shall:

- (1) report in person to the local law enforcement authority;**
- (2) register; and**
- (3) be photographed by the local law enforcement authority in each location where the offender is required to register; every ninety (90) days.**

(c) Each time a sex offender who claims to be working or attending school registers in person, the sex offender shall provide documentation to the local law enforcement authority providing evidence that the sex offender is still working or attending school at the registered location.

SECTION 9. IC 11-8-8-17, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. A sex offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex offender under this chapter; or
- (4) fails to register in person ~~and be photographed at least one (1) time per year~~ as required under this chapter; **or**

(5) does not reside at the sex offender's registered address; commits a Class D felony. However, the offense is a Class C felony if the sex offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

SECTION 10. IC 11-8-8-18, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority **in the county where the sexually violent predator's**

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principal address is located, in person, ~~or in writing~~, of the following:

(1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.

(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.

(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person, ~~or in writing~~, of the following:

(1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.

(2) The location where the sexually violent predator will be located while spending time in the county.

(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

SECTION 11. IC 11-8-8-19, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex offender is required to register under this chapter until the expiration of ten (10) years after the date the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

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(3) is placed in a community corrections program;

(4) is placed on parole; or

(5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex offender is notified that the obligation to register has expired.

(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex offender who is an offender against children (as defined in IC 35-42-4-11) is required to register for life.

~~(e)~~ (d) A sex offender who is convicted of at least one (1) sex offense that the sex offender committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than ~~twelve (12)~~ **fourteen (14)** years of age at the time of the crime;

is required to register for life.

~~(d)~~ (e) A sex offender who is convicted of at least one (1) sex offense in which the sex offender:

(1) proximately caused serious bodily injury or death to the victim;

(2) used force or the threat of force against the victim or a member of the victim's family, **unless the offense is sexual battery as a Class D felony and was committed against a victim who was at least fourteen (14) years of age at the time of the offense;** or

(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

~~(e) A sex offender who is convicted of at least two (2) unrelated sex offenses is required to register for life.~~ **(f) A person who is required to register as a sex offender in any jurisdiction shall register for the period of time required by the other jurisdiction or the length of time described in this section, whichever is longer.**

SECTION 12. IC 35-38-1-7.5, AS AMENDED BY P.L.173-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in IC 11-8-8-5. The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under

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subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2); ~~or~~

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or

(J) a crime under the laws of another jurisdiction that is substantially equivalent to an offense listed in clauses (A) through (I);

(2) commits an offense described in IC 11-8-8-5 while having a previous unrelated conviction for an offense described in IC 11-8-8-5 for which the person is required to register as an offender under IC 11-8-8;

(3) commits an offense described in IC 11-8-8-5 while having a previous unrelated adjudication as a delinquent child for an act that would be an offense described in IC 11-8-8-5 if committed by an adult; or

(4) attempts or conspires to commit a crime described in clauses (A) through (J);

is a sexually violent predator. **Except as provided in subsection (g), a person is a sexually violent predator by operation of law if the person committed an offense described in this subsection at any time.**

(c) This section applies whenever a court sentences a person for a sex offense listed in IC 11-8-8-5 for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall ~~determine~~ **indicate on the record** whether the person ~~is~~ **has been convicted of an offense that makes the person** a sexually violent predator under subsection (b).

(e) If the ~~court does not find the person to be~~ **is not** a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection

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1 (a).

2 (f) If ~~the court finds that~~ a person is a sexually violent predator:

3 (1) the person is required to register with the local law
4 enforcement authority as provided in IC 11-8-8; and

5 (2) the court shall send notice ~~of its finding under this subsection~~
6 to the department of correction.

7 (g) **This section does not apply to a person who has two (2) or**
8 **more unrelated convictions for an offense described in IC 11-8-8-5**
9 **for which the person is required to register under IC 11-8-8.** A
10 person who is ~~found by a court to be~~ a sexually violent predator may
11 petition the court to consider whether the person should no longer be
12 considered a sexually violent predator. The person may file a petition
13 under this subsection not earlier than ten (10) years after:

14 (1) the sentencing court makes its ~~finding~~ **determination** under
15 subsection (e); or

16 (2) a person ~~found to be who is~~ a sexually violent predator under
17 subsection (b) is released from incarceration **or probation,**
18 **whichever occurs last.**

19 **Before making a determination that a person should no longer be**
20 **considered a sexually violent predator, the court shall, at the**
21 **person's expense, consult with two (2) licensed psychiatrists or**
22 **psychologists having expertise in criminal behavioral disorders to**
23 **determine if the person should no longer be considered a sexually**
24 **violent predator.** A person may file a petition under this subsection
25 not more than one (1) time per year. If a court finds that the person
26 should no longer be considered a sexually violent predator, the court
27 shall send notice to the department of correction **and the local law**
28 **enforcement authority in which the person's principal residence is**
29 **located** that the person is no longer considered a sexually violent
30 predator. **If the person's sexually violent predator designation is the**
31 **result of a conviction for child molesting (IC 35-42-4-3), the court**
32 **shall also indicate on the record that the person is no longer an**
33 **offender against children under IC 35-42-4-11(a)(2)(A).**
34 Notwithstanding any other law, a condition imposed on a person due
35 to the person's status as a sexually violent predator, including lifetime
36 parole or GPS monitoring, does not apply to a person no longer
37 considered a sexually violent predator. **A person who is no longer**
38 **considered a sexually violent predator shall continue to register as**
39 **a sex offender for life.**

40 SECTION 13. IC 35-38-1-28 IS ADDED TO THE INDIANA
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2007]: **Sec. 28. (a) Except as provided in**

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1 subsection (c), immediately after sentencing for an offense, the
 2 court shall order the defendant to be fingerprinted by an individual
 3 qualified to take fingerprints. The fingerprints may be recorded in
 4 any reliable manner, including the use of a digital fingerprinting
 5 device.

6 (b) The court shall order a law enforcement officer to provide
 7 the fingerprints to the prosecuting attorney and the state police
 8 department in hard copy or in an electronic format.

9 (c) The court is not required to order the defendant to be
 10 fingerprinted if the defendant was previously arrested and
 11 processed at the county jail.

12 SECTION 14. IC 35-42-4-9 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A person at least
 14 eighteen (18) years of age who, with a child at least fourteen (14) years
 15 of age but less than sixteen (16) years of age, performs or submits to
 16 sexual intercourse or deviate sexual conduct commits sexual
 17 misconduct with a minor, a Class C felony. However, the offense is:

18 (1) a Class B felony if it is committed by a person at least
 19 twenty-one (21) years of age; ~~and~~

20 (2) a Class A felony if it is committed by using or threatening the
 21 use of deadly force, if it is committed while armed with a deadly
 22 weapon, if it results in serious bodily injury, or if the commission
 23 of the offense is facilitated by furnishing the victim, without the
 24 victim's knowledge, with a drug (as defined in IC 16-42-19-2(1))
 25 or a controlled substance (as defined in IC 35-48-1-9) or knowing
 26 that the victim was furnished with the drug or controlled
 27 substance without the victim's knowledge; **and**

28 **(3) a Class D felony if committed by a person who is not more**
 29 **than four (4) years older than the victim.**

30 (b) A person at least eighteen (18) years of age who, with a child at
 31 least fourteen (14) years of age but less than sixteen (16) years of age,
 32 performs or submits to any fondling or touching, of either the child or
 33 the older person, with intent to arouse or to satisfy the sexual desires of
 34 either the child or the older person, commits sexual misconduct with
 35 a minor, a Class D felony. However, the offense is:

36 (1) a Class C felony if it is committed by a person at least
 37 twenty-one (21) years of age; and

38 (2) a Class B felony if it is committed by using or threatening the
 39 use of deadly force, while armed with a deadly weapon, or if the
 40 commission of the offense is facilitated by furnishing the victim,
 41 without the victim's knowledge, with a drug (as defined in
 42 IC 16-42-19-2(1)) or a controlled substance (as defined in

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IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

SECTION 15. IC 35-42-4-10, AS ADDED BY P.L.6-2006, SECTION 3, AS ADDED BY P.L.140-2006, SECTION 31, AND AS ADDED BY P.L.173-2006, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. **(a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.**

~~(a)~~ **(b)** As used in this section, "sexually violent predator" ~~has the meaning set forth in~~ means a person who is a sexually violent predator under IC 35-38-1-7.5.

~~(b)~~ **(c)** A sexually violent predator **or an offender against children** who knowingly or intentionally works for compensation or as a volunteer:

- (1) on school property;
- (2) at a youth program center; or
- (3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under this chapter.

SECTION 16. IC 35-42-4-11, AS AMENDED BY P.L.173-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) As used in this section **and except as provided in subsection (d)**, "offender against children" means a person ~~required to register as a sex offender under IC 11-8-8~~ who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5;
- or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b)).
 - (C) Child solicitation (IC 35-42-4-6).
 - (D) Child seduction (IC 35-42-4-7).

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(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age **and the person is not the child's parent or guardian.**

(F) Possession of child pornography (IC 35-42-4-4(c)).

(G) An offense listed in IC 11-8-8-5 against a victim who was less than fourteen (14) years of age.

(H) An attempt or conspiracy to commit an offense described in clauses (A) through (G).

~~(F)~~ **(I)** An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through ~~(E)~~; **(H).**

(b) As used in this section, "reside" means to spend more than ~~two~~ **(2)** ~~three~~ **(3)** nights in a residence in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

(d) A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last.

(e) Before making a determination that a person should no longer be considered an offender against children, the court shall, at the person's expense, consult with two (2) licensed psychiatrists or psychologists having expertise in criminal behavioral disorders to determine if the person should no longer be considered an offender against children. A person may file a petition under subsection (d) not more than one (1) time per year. If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction and the local law enforcement authority having jurisdiction over the person's principal address that the person is no longer considered an offender against children. A person who is no longer considered an offender against children shall continue to register as a sex offender for life.

SECTION 17. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex offender web site, known as the Indiana sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required under IC 11-8-8-8.

(c) Every time a sex offender registers, but at least once per year, the sheriff shall:

- (1) photograph the sex offender; and
- (2) **determine whether the sex offender's fingerprints are on file:**
 - (A) in Indiana; or
 - (B) with the Federal Bureau of Investigation.

If it appears that the sex offender's fingerprints are not on file as described in subdivision (2), the sheriff shall fingerprint the sex offender and transmit a copy of the fingerprints to the state police department. The sheriff shall place ~~this~~ the photograph described in subdivision (1) on the Indiana sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

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(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex offender web site.

(e) The Indiana sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 18. [EFFECTIVE JULY 1, 2007] **IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-9, IC 35-42-4-10, and IC 35-42-4-11, all as amended by this act, apply only to crimes committed after June 30, 2007.**

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SENATE MOTION

Madam President: I move that Senator Young R Michael be added as coauthor of Senate Bill 471.

WYSS

SENATE MOTION

Madam President: I move that Senators Drozda and Walker be added as coauthors of Senate Bill 471.

WYSS

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 471, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 13, after "guardian" insert "**and did not kidnap the child for sexual purposes**".

Page 2, line 16, after "guardian" insert "**and did not confine or remove the child for sexual purposes**".

Page 2, line 33, after "person" insert ", **including a child,**".

Page 15, between lines 37 and 38, begin a new paragraph and insert: "SECTION 13. IC 35-38-1-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 28. (a) Except as provided in subsection (c), immediately after sentencing for an offense, the court shall order the defendant to be fingerprinted by an individual qualified to take fingerprints. The fingerprints may be recorded in any reliable manner, including the use of a digital fingerprinting device.**

(b) The court shall order a law enforcement officer to provide the fingerprints to the prosecuting attorney and the state police department in hard copy or in an electronic format.

(c) The court is not required to order the defendant to be fingerprinted if the defendant was previously arrested and

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processed at the county jail."

Page 18, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 17. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex offender web site, known as the Indiana sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required under IC 11-8-8-8.

(c) Every time a sex offender registers, but at least once per year, the sheriff shall:

- (1) photograph the sex offender; **and**
- (2) **determine whether the sex offender's fingerprints are on file:**
 - (A) **in Indiana; or**
 - (B) **with the Federal Bureau of Investigation.**

If it appears that the sex offender's fingerprints are not on file as described in subdivision (2), the sheriff shall fingerprint the sex offender and transmit a copy of the fingerprints to the state police department. The sheriff shall place ~~this~~ the photograph described in subdivision (1) on the Indiana sex offender web site.

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- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph

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must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons. (6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex offender web site.

- (e) The Indiana sex offender web site may be funded from:
- (1) the jail commissary fund (IC 36-8-10-21);
 - (2) a grant from the criminal justice institute; and
 - (3) any other source, subject to the approval of the county fiscal body."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 471 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 0.

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